

E-Filed 8/20/12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ARTHUR L. HOLDEN,

No. C 12-1869 RS (PR)

Plaintiff,

**ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND**

v.

JUDGE JENNINGS, et al.,

Defendants.

INTRODUCTION

This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state prisoner. The Court now reviews the complaint pursuant to 28 U.S.C. § 1915A(a).

DISCUSSION

A. Standard of Review

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the Court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may

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1 be granted or seek monetary relief from a defendant who is immune from such relief. *See id.*
 2 § 1915A(b)(1),(2). *Pro se* pleadings must be liberally construed. *See Balistreri v. Pacifica*
 3 *Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

4 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim
 5 to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009)
 6 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial
 7 plausibility when the plaintiff pleads factual content that allows the court to draw the
 8 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting
 9 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal conclusions
 10 cast in the form of factual allegations if those conclusions cannot reasonably be drawn from
 11 the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir. 1994).
 12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
 13 (1) that a right secured by the Constitution or laws of the United States was violated, and
 14 (2) that the alleged violation was committed by a person acting under the color of state law.
 15 *See West v. Atkins*, 487 U.S. 42, 48 (1988).

16 **B. Legal Claims**

17 The complaint comprises a confusing group of unrelated claims. Plaintiff appears to
 18 allege that while incarcerated in Martinez, California he was served bad food, was beaten up
 19 by police officers, and that state judges violated his rights. Because the complaint is difficult
 20 to read and the claims are difficult to discern, plaintiff must file an amended complaint in
 21 which he states clearly (and legibly) the names of each defendant, the specific acts the named
 22 defendant took, where each incident occurred, and on which date they occurred.

23 Accordingly, the complaint is DISMISSED with leave to amend. Plaintiff shall file an
 24 amended complaint within 30 days from the date this order is filed. The first amended
 25 complaint must address all the deficiencies listed above, and include the caption and civil
 26 case number used in this order (12-1869 RS (PR)) and the words FIRST AMENDED
 27 COMPLAINT on the first page. Because an amended complaint completely replaces the
 28

1 previous complaints, plaintiff must include in his first amended complaint *all* the claims he
2 wishes to present and *all* of the defendants he wishes to sue. *See Ferdik v. Bonzelet*, 963
3 F.2d 1258, 1262 (9th Cir. 1992). Plaintiff may *not* incorporate material from the prior
4 complaint by reference. Failure to file an amended complaint in accordance with this order
5 will result in dismissal of this action without further notice to plaintiff.

6 It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court
7 informed of any change of address by filing a separate paper with the clerk headed "Notice
8 of Change of Address." He must comply with the Court's orders in a timely fashion or ask
9 for an extension of time to do so. Failure to comply may result in the dismissal of this action
10 pursuant to Federal Rule of Civil Procedure 41(b).

11 **IT IS SO ORDERED.**

12 DATED: August 20, 2012

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14 RICHARD SEEBORG
15 United States District Judge
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